

BOARD OF APPEALS CASE NO. 4924

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BEFORE THE

APPLICANT: Michael Clark

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ZONING HEARING EXAMINER

REQUEST: Variance to subdivide a lot
without 25 feet of road frontage in the
R2 District; 711-715 West Baker Avenue,
Abingdon

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 5/26/99 & 6/2/99

HEARING DATE: August 18, 1999

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Record: 5/28/99 & 6/4/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Michael Clark, appeared before the Hearing Examiner requesting a variance to Section 267-22(C) of the Harford County Code, to subdivide a lot without the required 25 feet of road frontage in the R2 District.

The subject parcel is located at 711-715 West Baker Avenue in the First Election District. The parcel is identified as Parcel No. 419, in Grid 4-E, on Tax Map 62. The parcel is zoned R2 and contains .91 acres, m/l.

Mr. Michael Clark appeared and testified that he is the owner of the subject parcel and that he would like to create a two-lot subdivision without the required 25 foot abutment on a public road. The Applicant said that he can meet all other Code requirements. The witness said the parcel is unique because the parcel is larger than other lots in the immediate area and due to its limited road frontage.

Ms. Margaret Lucas appeared and testified that she has been a title abstractor for 30 years and said that a review of the Applicant's title indicates that he has the use of a 20 foot right-of-way from Baker Avenue to the subject parcel.

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Mr. Anthony S. McClune, Manager, Division of Land Use Management, appeared and testified he felt that the subject parcel was unique because the minimum lot size in an R2 District is 10,000 square feet and the Applicant owns more than 39,000 square feet. He said the Applicant can meet all other Code requirements except for the required road frontage. He said the right-of-way was created prior to the enactment of the Zoning Code and Subdivision Regulations, and that the creation of one additional lot from the parcel will not adversely impact the neighborhood nor the intent of the Code. Mr. McClune said that the Staff recommends conditional approval of the Applicant's request.

CONCLUSION:

The Applicant is requesting a variance to Section 267-22(C) of the Harford County Code to subdivide a lot without 25 feet of road frontage in an R2, Urban Residential District.

Section 267-22(C) provides:

"Lot frontage requirements. Any building, structure or use fronting on a public or private road shall be located on a lot abutting the road for at least twenty-five (25) feet, except as otherwise required by this Part 1. In attached dwelling projects, provided that all buildings are so located to provide access for servicing, fire protection and off-street parking, lots may front on open space, courts or group parking areas, and each such attached dwelling unit shall not be required to meet the road frontage standard."

The uncontradicted testimony of the Applicant and Mr. McClune of the Department of Planning and Zoning is that the subject parcel is unique due to its lack of road frontage. Mr. McClune testified that the size of the subject parcel far exceeds the minimum size for a lot in the R2 District and that the Applicant can meet or exceed all other Code requirements to create a lot. The evidence indicates that the subject parcel is served by a right-of-way which was created prior to the enactment of the original Zoning Ordinance in 1957. The testimony of Mr. McClune further indicates that the Staff's position is that one additional lot from the parcel will not adversely impact the neighborhood nor the intent of the Code.

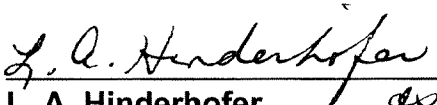
Therefore, it is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant and Mr. McClune and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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The variance to create a second lot is hereby recommended, subject to the following conditions:

1. That written approval to utilize the 20-foot right-of-way for access to the new lot be obtained from the owner of the right-of-way.
2. That a preliminary plan be submitted for review and approval by the Department of Planning and Zoning and a final plat be recorded among the Land Records of Harford County.

Date SEPTEMBER 3, 1999



L. A. Hinderhofer
Zoning Hearing Examiner